

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Keith Mitan,)	C/A 3:04-22224-CMC-BM
)	
Plaintiff,)	
)	
v.)	OPINION AND ORDER
)	
Kara Gormley; and Cosmos)	
Broadcasting Corporation,)	
)	
Defendants.)	
)	

In his complaint filed September 15, 2004, Plaintiff, proceeding *pro se*, asserts a state law cause of action for defamation. Defendant Kara Gormley has filed a motion to dismiss on the ground that she has never been served with process pursuant to Rule 4(m), Fed. R. Civ. P. In response to the motion, Plaintiff states that proper service was never completed and concurs in the motion to dismiss Defendant Gormley from this case without prejudice under Rule 4(m). In accordance with this court's order of reference and 28 U.S.C. § 636(b), this matter comes before the court with the Report and Recommendation of United States Magistrate Judge Bristow Marchant.

Based on his review of the record, the Magistrate Judge has recommended that Defendant Gormley's motion be granted and that she be dismissed as a party Defendant in this case, without prejudice. The court advised the parties of their right to file objections to the Report and Recommendation and the serious consequences of a failure to do so. No objections have been filed and the time for doing so has expired.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may

accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

After reviewing the complaint, the motion, the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court adopts the Report and Recommendation.

THEREFORE, IT IS ORDERED that Defendant Gormley's motion is **GRANTED** and she is *dismissed* as a party Defendant in this case, *without prejudice*.

IT IS FURTHER ORDERED that the matter is *remanded* to the Magistrate Judge for further proceedings as to the claims against the remaining Defendant.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 31, 2005

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